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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,255	07/18/2003	Kent D. Cedola	MS1-403USC1	3271
22801	7590	06/27/2006	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			HASSAN, AURANGZEB	
			ART UNIT	PAPER NUMBER
			2182	

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/622,255	Applicant(s) CEDOLA, KENT D.	
	Examiner Aurangzeb Hassan	Art Unit 2182	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,20 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/18/2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/18/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1, 3, 4, and 20 – 22 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 – 27 of U.S. Patent No. 6,625,669. Although the conflicting claims are not identical, they are not patentably distinct from each other. Claims 1 – 27 of Patent No. 6,625,669 discloses all the elements, a port associated with an infrared transceiver, a port detector, a port renaming module and a list (system registry, claim 1) comprising of descriptive names and display (user interface, claim 5), of the identified claims of the instant application.

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1, 3, 4, and 20 – 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belt et al. (US Patent Number 6,029,213 hereinafter "Belt") in view of Feagans (US Patent Number 6,360,281).

5. As per claims 1 and 20, Belt teaches a computer system (notebook computer 226, figure 2c) which can be implemented in a set-top box (projector 238, figure 2c, transmitting video data to a display, column 3, lines 44 – 54) method comprising:

at least one communication port associated with an infrared transceiver (1st and 2nd IR ports, 230 and 234, figure 2c);

a port detector to create a list of existing virtual port names of available communication ports in the computer system (port detection scans and internally lists all IR and available ports in system, column 4, lines 1 – 32);

Belt does not teach a port renaming module and a display to present the list.

Feagans analogously teaches a system having:

a port renaming module (Control Panel of Windows 95, column 7, lines 60 – 67) to examine each of the names on the list (COMx, COM1, COM2, etc, column 7, lines 60 – 67) and create a descriptive name for each communication port associated with virtual

ports ("Sportster", column 7, lines 60 – 67), wherein the descriptive name distinguishes the communication port associated with an infrared transceiver from the existing virtual port names on the list (user has full selective capability to configure virtual names, column 7, lines 60 – 67); and

a display to present the list of names to a user, wherein a descriptive name is used on the list (updates in Control Panel are displayed on the interface connected, column 7, lines 60 – 67, column 8, lines 1 – 5).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Belt with the teachings of Feagans. One of ordinary skill in the art would have been motivated to make such modification in order to retrieve status information without interrupting data communications and allow for real-time information availability to be viewed in a user-friendly interface on demand (column 1, lines 64 – 67, column 2, lines 1 – 3).

6. Belt modified by the teachings of Feagans as applied in claims 1 and 20 above, as per claims 3 and 21, Belt teaches a computer system and set-top box implemented method wherein the port detector cycles through the communication ports (scanning program, column 4, lines 1 – 5) and attempts to open the communication ports (searches for an external signal, column 4, lines 11 – 22), the port detector using results from the attempts to determine whether the communication ports are available (availability as in signal present, column 4, lines 1 – 32).

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7. Belt modified by the teachings of Feagans as applied in claims 1 and 20 above, as per claims 4 and 22, Belt teaches a computer system and set-top box implemented method wherein the port detector checks a software driver associated with an infrared transceiver to identify a communication port associated with the infrared transceiver (operating system communicates with an IR device driver 510, figure 4, which begins to communication with one of the IR transceiver, column 4, lines 41 - 55).

Conclusion


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aurangzeb Hassan whose telephone number is (571) 272-8625. The examiner can normally be reached on Monday - Friday 9 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Huynh can be reached on (571) 272-4147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AH



KIM HUYNH
SUPERVISORY PATENT EXAMINER
6/22/06